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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,633	12/26/2003	Igor V. Touzov		1632

34185 7590 02/14/2006

IGOR V TOUZOV  
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CARY, NC 27519

EXAMINER
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HOPKINS, ROBERT A

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/707,633	<b>Applicant(s)</b> TOUZOV, IGOR V.	
	<b>Examiner</b> Robert A. Hopkins	<b>Art Unit</b> 1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 5-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Election/Restrictions*

Applicant's election of group I, claims 1,3,4, and 11 in the reply filed on 2-2-06 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 1,2, and 5-10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected groups, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2-2-06.

Examiner notes that the amendment to claim 2 and other dependant claims does not sufficiently remove the requirement for restriction because the method claims do not require the structure recited in the apparatus claims.

An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents

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located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1,3,4, and 11 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a porous material, does not reasonably provide enablement for a material with a large surface area. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with these claims. Examiner notes that a "material with large surface area" can be in a range of materials which are not porous materials, wherein porous materials are critical to the current application in order to effectively retain the vapor generating chemical or liquid. Therefore such a limitation encompasses structures which are outside of the scope of the current specification.

Claims 1,3,4, and 11 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claims are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly

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and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claims must be in one sentence form only. Note the format of the claims in the patents cited.

Claim 1 recites “ a method of containment or enclosure that employs...”.

Examiner notes that there seems to be missing limitations before or after “enclosure” which define structure which is being contained or enclosed. For example in figure 2 a “subject” is contained or enclosed, however claim 1 does not recites any limitations to an object or subject. An example of claim language would be –A method of containing or enclosing a subject, wherein the method includes providing a containment or enclosure, wherein the containment or enclosure employs ... “. Claims 3,4, and 11 depend on claim 1 and hence are also rejected.

Claim 1 recites “employs one or all of the following substances”. Examiner notes that “one or all” is indefinite because for embodiments with only one substance, claim 4 lacks antecedent basis. Examiner suggests changing “one or all” to – at least one – .

Claim 1 line 4 recites “means of at least one of the following”. Examiner notes that the “means” is not followed by a function as required by 112 sixth paragraph claim structure, therefore the “means” is indefinite. Examiner suggests deleting “means” and inserting the word –mechanism— after “following” in line 5 to further define that each of three limitations listed is a mechanism for retaining a vapor generating chemical or liquid.

Claim 1 includes two sentences. The claim should be amended so that a single sentence is presented.

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Claims 3 and 11 provides for the use of packaging of items during their transportation by air, sea, or ground, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 3 and 11 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3,4, and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Castberg(2923632).

Castberg teaches a method of containment or enclosure that employs porous materials(filter paper), and wherein the porous material contains vapor generating chemicals(example given as 8-hydroxyquinoline; column 3 lines 8-9) contacting its

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surface by adsorption(column 1 lines 63-72, column 2 lines 1-20). Castberg further teaches using two or more distinctive types of substances(column 2 lines 15-28).

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rainey(3940062)

Rainey teaches a method of containment or enclosure that employs porous materials(moisture pod 20 with porous pad 22) and wherein the porous material contains vapor generating liquid(water) contacting its surface by capillary forces.

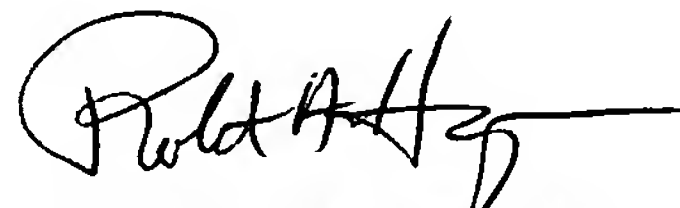
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Hopkins whose telephone number is 571-272-1159. The examiner can normally be reached on Monday-Friday, 7am-4pm, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rah  
February 9, 2006

  
ROBERT A. HOPKINS  
PRIMARY EXAMINER  
P.U. 1724